UNITED NATIONS **E**

Economic and Social Council

Distr.
GENERAL

E/C.12/2001/SR.16
7 February 2002

ENGLISH
Original: FRENCH

COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Twenty-fifth session

SUMMARY RECORD OF THE 16th MEETING

Held at the Palais Wilson, Geneva,
on Wednesday, 2 May 2001, at 3 p.m.

Chairperson: Ms. BONOAN-DANDAN

CONTENTS

CONSIDERATION OF REPORTS:

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (continued)

Initial report of Bolivia

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of this document to the Official Records Editing Section, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the meetings of the Committee at this session will be consolidated in a single corrigendum to be issued shortly after the end of the session.

GE.01-41761 (E) 231101 070202

The meeting was called to order at 3.10 p.m.

CONSIDERATION OF REPORTS:

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (agenda item 6) (continued)

Initial report of Bolivia (E/1990/5/Add.44; E/C.12/Q/BOL/1; E/C.12/CA/BOL/1; HRI/CORE/1/Add.54/Rev.1; HRI/CESCR/NONE/2001/6 in Spanish only) (continued)

1. At the invitation of the Chairperson, the members of the delegation of Bolivia resumed their places at the Committee table.

2. The CHAIRPERSON invited the delegation of Bolivia to continue replying to Committee members' questions.

3. Mr. CAMACHO (Bolivia) said that the presentation of the initial report (document E/1990/5/Add.44) had been delayed owing to a series of problems the State party had faced in meeting its obligations under the Covenant over a period that had coincided with the installation of democracy. The National Dialogue Act, one of the measures taken to enforce the provisions of the Covenant, introduced a policy of decentralization benefiting local authorities, which would be able to implement their own development strategies and fund them with resources allocated by the central government, thus obviating any discrimination.

4. Although the Poverty-Reduction Strategy Paper already contained many principles and ideas set forth in the Covenant, explicit reference could also be made to that instrument, which, in his delegation's view, formed part of his country's poverty-reduction plan. He agreed with the suggestion that Bolivia should, in its negotiations with the World Bank, underscore its obligation to ensure enjoyment of economic, social and cultural rights, so as to secure more resources and economic assistance.

5. One of the priorities of the anti-poverty struggle was to ensure equity in housing, health and education. The Government had therefore reviewed the mechanism for financing housing construction programmes established by the National Housing Council, a public body whose management had been discriminatory and little transparent. Private initiative had gained in importance, and the Government was endeavouring to promote social investments - such as access to drinking water and sanitation - especially in rural areas. With the help of the World Bank, it had invested US$ 60 million in programmes involving local authorities and women.

6. The main mission of the Vice-Ministry of Gender Affairs, whose share of the State budget was small, was to coordinate economic and social development policies. While it endeavoured to sensitize the population to gender-equality issues through information, education and training programmes, its activities were as yet inadequate.

7. As to the problems connected with the cessation of coca production, it was difficult to find alternative crops that fetched such good prices. However, with the support of the international community, the Government was beginning to promote the substitution of coca cultivation with other crops such as bananas and pineapples.

8. In conclusion, he believed that the information concerning forced labour and slavery was exaggerated, although he acknowledged that it was difficult to put an end to such practices in the current social and economic climate. However, the legislative arsenal in place made it possible to do so peacefully.

Articles 6-9 of the Covenant

9. The CHAIRPERSON invited the delegation of Bolivia to reply to questions 10-21 of the list of issues (document E/C.12/Q/BOL/1).

10. Mr. CAMACHO (Bolivia) said that a proposal from the International Labour Office (ILO) concerning employment policy had been discussed with the Ministry of Labour and Microenterprises. The Government was doing its utmost to improve the job situation by taking such measures as reducing wage costs, raising productivity, increasing local and foreign private investment, and raising capacity use.

11. He explained that the bill to amend the General Labour Law, which had met with differing reactions in Bolivia, had been withdrawn. At December 1999, International Labour Organization (ILO) Conventions Nos. 2 and 29 had still not been ratified. The minimum wage was calculated on the basis of the National Statistical Institute's economic and social indicators. It was fixed by supreme decree and covered workers' basic needs.

12. He confirmed the existence of a labour inspection service, which reported to the Ministry of Labour and Microenterprises. That service was headed by a national director and included regional departments. It had no coercive powers and employed conciliation. It conducted inspections under the General Occupational Health, Safety and Welfare Law to prevent accidents at work and proffered advice to reduce the risk of occupational diseases. The prevention policy was supervised by the Directorate-General of Occupational Health, Safety and Welfare, which came under the Ministry of Labour and Microenterprises. Training programmes focusing on risk prevention and occupational diseases were implemented with WHO support.

13. In July 2000, the Ministry of Labour and Microenterprises had created an inter-agency commission responsible for drawing up a National Plan for the Progressive Elimination of Child Labour. That commission comprised representatives of public bodies, civil society, private businesses, the Church and international organizations. The aim of the national plan was, by the year 2010, to reduce work by children under 14, protect working children over 14, and eliminate the worst forms of child and teenage labour. A unit responsible for monitoring and coordinating the implementation of the national plan would be established within the Ministry of Labour and Microenterprises. Bolivia had also ratified the Convention on the Rights of the Child and ILO Convention No. 138 concerning Minimum Age for Admission to Employment. In December 1999 it had prepared the Children and Adolescent Code, based on the principle of the best interests of the child.

14. Article 159 of the Bolivian Constitution and article 99 of the General Labour Law recognized the right of workers freely to form trade unions. In the agricultural sector, only wage earners could join a trade union. There were confederations of small farmers in rural areas, where indigenous peoples lived. Foreigners were permitted to join the trade union of their choice, but were not eligible to hold office, inasmuch as under article 138 of the regulations governing enforcement of the Labour Law, trade union leaders must be Bolivian by birth or have acquired Bolivian nationality. For a strike to be declared legal, conciliation and arbitration procedures must first have been unsuccessful. Those procedures were usually short, but no restriction on the right to strike existed in practice. In accordance with the ILO recommendations, the Bolivian Government did not intervene in the exercise of trade union rights or the right to strike. Lastly, the coverage rate of social security benefits was 25 per cent.

The meeting was suspended at 4 p.m. and resumed at 4.10 p.m.

15. The CHAIRPERSON invited Committee members to put questions concerning articles 6-9 of the Covenant to the delegation of Bolivia.

16. Mr. ATANGANA asked for details concerning the measures planned to give effect to the National Plan for the Progressive Elimination of Child Labour, established for the period 2000-2010.

17. Mr. WIMER ZAMBRANO asked the delegation to explain why the Government had neither signed nor ratified ILO Conventions Nos. 29, 2 and 17 relating, respectively, to forced labour, unemployment, and workmen's compensation for accidents.

18. Mr. TEXIER said he considered Bolivia's written replies to the list of issues mostly inadequate, often in fact contradicting information from other sources. Although the Bolivian delegation asserted that an employment policy had been implemented, 2000 would appear to have been the year of mass lay-offs and labour disputes in Bolivia. Some 4,000 persons had reportedly been laid off from the public service as a result of cuts in public spending, while the private sector had not fared any better. As things stood, according to the National Statistical Institute, the private sector had substantially reduced its activities during the third quarter. What measures had the Government in fact taken to combat unemployment effectively? And what had been the unemployment rate for the first quarter of 2001?

19. He also wished to know what Bolivia's minimum-wage policy was, how the minimum wage was determined and whether it was sufficient to allow workers and their families to enjoy a decent living, as stipulated in article 7 of the Covenant.

20. It would also appear that many Bolivian businesses did not abide by health and safety standards in the workplace. Could the delegation explain the country's policy in that respect and say, more precisely, how many inspectors were on the Ministry of Labour's books and whether they really had the means to enforce the law?

21. In conclusion, the written replies appeared to indicate that there was virtually no restriction on the exercise of trade union rights in Bolivia. However, according to some sources, the constraints on the exercise of those rights were considerable. ILO, for its part, had strongly

criticized the complexity of strike legislation in Bolivia, which, in its view, was tantamount in practice to a complete ban on strikes. Could the delegation inform the Committee when the reform of the Labour Code would be completed and when it would enter into force? Also, why had the State party not ratified two very important ILO Conventions, No. 2 on unemployment and No. 29 on forced labour?

22. Mr. MARTYNOV said that article 58 of the General Labour Law, which set the legal minimum age for admission to employment at 14, was contrary to the ILO Conventions ratified by the State party and to the objectives set forth in the National Plan for the Progressive Elimination of Child Labour. What were the delegation's views in that respect?

23. Could the delegation also deny or confirm information to the effect that adult men were kept out of the labour market in favour of underpaid women and children? Were Bolivian labour inspectors competent to deal with the matter, especially since, according to some sources, the new draft Labour Code deliberately discounted some essential labour-inspection functions, including special procedures for denouncing breaches of the social legislation?

24. It also seemed that a bill to protect domestic workers had been under study for eight years. When would it be approved? And what were its enforcement methods?

25. Mr. CEAUSU asked how many microenterprises had been created in the country, the size of their staff, and the proportion of their contribution to the gross domestic product (GDP). What policies had the Government established to accelerate economic growth and pron ote investment and job creation? Could the delegation also say whether the Government's overall economic development plan envisaged diverting investments towards the country's less developed regions and the rural areas?

26. It had been stated in paragraph 100 of the report that at 1 January 1999 the legal minimum wage had been Bs 330 in both the public and private sectors. Could the delegation specify the amount in United States dollars and say how many people received it? How, from the practical point of view, was labour inspection organized? He would also like to know what powers labour inspectors had, how many of them there were, and how often they carried out inspections.

27. Turning to the application of article 9 of the Covenant, relating to social security, he asked what contributions a Bolivian employee was required to make to be covered by the social security system, which seemed to be far too complex and costly. It could usefully be amended by, for instance, setting up a single fund, controlled and managed by the authorities, which would help reduce operating costs.

28. Referring to the table entitled "Occupation and use of land" in paragraph 329 of the report, he wondered how, if 92.5 per cent of farms owned less that 10 per cent of all farmland, peasant farming could contribute 75 per cent of GDP. What would be its contribution if small parcels cultivated by peasants in the valleys and the Altiplano, where some 700,000 families lived, measured not less than 1, but 2, 5 or 10 hectares?

29. Mr. RATTRAY stressed the importance of the right to work in Bolivia, since the country paid no unemployment allowances. In that context, he asked whether the General Labour Law protected workers against unfair dismissal and, if so, whether they could obtain compensation through the courts. If a firm's staff were cut for economic reasons, did that same law provide for the payment of termination compensation? Was the State party aware of its obligation, under article 6 of the Covenant, to achieve the full realization of the right to work, which included the right of everyone to the opportunity to gain his living by work which he freely chose or accepted, and, therefore, the obligation to combat forced labour, including that of children? He deplored the fact that the rights enshrined in article 8 of the Covenant, the right of everyone to form trade unions and join the trade union of his choice, should be subject to such severe restrictions. In fact, although the General Labour Law authorized the right to strike, it was difficult to exercise effectively since it was governed by the so-called "three quarters" rule whereby a strike could be initiated only if 75 per cent of the employees concerned were in favour. That was an undemocratic rule, inasmuch as the wishes of a small minority were enough to halt the process. Lastly, on what criteria was the minimum wage based, given the fact that, according to certain sources, it did not suffice to cover basic needs and ensure a decent living for workers and their families?

30. Mr. WIMER ZAMBRANO said that another ILO convention that the State party should ratify was Convention No. 174 on Prevention of Major Industrial Accidents.

31. Mr. AHMED asked the delegation to confirm or deny several items of information supplied to the Committee: was it true that, under the guise of apprenticeships, children aged 10-12 from poor families were placed in well-off families who, in exchange for their work, housed and fed them and paid for their education? Those children were allegedly completely deprived of freedom and obliged to work in unacceptable conditions. Apparently, agricultural workers belonging to indigenous groups also worked in slave conditions, as did domestic workers.

32. In conclusion, referring to the minimum wage earned by 80 per cent of urban workers, but not peasants, who accounted for 30 per cent of the working population, he wished to know what steps the Government was taking to remedy that serious situation.

33. Mr. TEXIER said that, as part of the Government's affirmative action, women worked 40 hours a week as against 48 hours for men, and were excused from night work and from particularly arduous tasks. He suggested that men's working hours should be brought into line with those of women. As to women's working conditions, he was perturbed by one of the provisions of the General Labour Law concerning female domestic workers. Article 39 stipulated that domestic workers were not subject to a fixed timetable. Since the law provided for 8 hours rest per day, such workers would be expected to work 16 hours a day. As for holidays, domestics who worked non-stop for one year would "receive the benefit" - as the law put it - of 10 days' paid leave. Again, article 37 provided for 15 days' notice of termination as against 90 days in other sectors, which also allowed longer vacations. Those facts showed that female domestic workers were subject to unacceptable working conditions verging on slavery. How did the Government intend to remedy the situation?

34. In conclusion, he referred to the deficiencies noted by the ILO Committee of Experts for the Application of Conventions and Recommendations in relation to trade union rights and requested further information concerning the following topics: (i) farm workers excluded from the scope of application of the General Labour Law; (ii) public servants deprived of trade union rights; (iii) the ban on foreigners' holding office in trade unions; (iv) the possibility of dissolving any trade union by administrative means; (v) the so-called "three quarters" rule governing strikes; (vi) the Government's power to impose compulsory arbitration for putting down a strike; and (vii) the need to promote and expand collective bargaining, which was permitted only for determining pay, and not for all aspects of labour.

35. Mr. SADI asked what working conditions and rights loggers enjoyed. He wished to know what impact logging had on the indigenous peoples' lifestyle and on the environment. Did the Government intend to pass laws to preserve forests and the inhabitants whose livelihood depended on them?

36. Mr. SERRATE CESPEDES (Bolivia) said that, first of all, the International Covenant on Economic, Social and Cultural Rights had been part and parcel of the domestic legislation since 2000 and that in those two years Bolivia had initiated the process for ratification of the international instruments to which it had acceded. Similarly, Bolivia had adopted a number of ILO labour conventions, including Convention No. 88 on Organization of the Employment Services, No. 95 on Protection of Wages, No. 111 on Discrimination (Employment and Occupation) - through which it endeavoured to promote equal opportunities and treatment as well as the principle of non-discrimination - No. 129 on Labour Inspection in Agriculture, and No. 26 concerning the Creation of Minimum Wage Fixing Machinery.

37. Furnishing data on the country's economic and social situation, he said Bolivia was the poorest country in Latin America and its human development index was the lowest in the region. However, it was growing faster than those of other Latin American countries. According to the UNDP Human Development Report, it had risen from 0.416 in 1991 to 0.652 in 1999, placing Bolivia among the countries with a medium-range human development index, whereas it had previously been among the countries with low human development indices. Great strides had also been made in literacy, with the adult literacy rate rising from 72.5 per cent in 1991 to 83.6 per cent in 1999. Other data also attested to improvements: the rate of access to health services had increased from 64 per cent in 1991 to 70 per cent in 1998, and to drinking water from 47 per cent in 1991 to 63 per cent in 1999.

38. Despite those results, which might be described as encouraging, it should be remembered that Bolivia, like other Latin American countries, was experiencing a severe economic crisis. While it could take pride in being the first country in the world to eliminate drug trafficking, it had to acknowledge that the drugs economy, although clandestine, had been a major source of revenue on which the country could no longer count. The loss was estimated at US$ 800 billion per year, which had been added to a substantial decline in oil revenue. That explained why Bolivia's annual revenue had dropped by 50 per cent in such a short time. The social repercussions were manifold and included the mass lay-offs and higher unemployment rate that had occurred in 2000. However, with a 0.64 per cent growth rate, the country was one of the few in the region to show positive growth. If, as was hoped, the civil war came to an end, Bolivia might achieve in 2001 the 3.8 per cent growth rate expected by the IMF.

39. He explained that the fixing of the minimum wage followed a formula based on the average cost of the basic shopping basket. The Ministry of Labour provided inspection services that were supposed to monitor strict application of the minimum wage. To questions concerning trade union rights, he firmly insisted that the right to strike was an absolute right in Bolivia and that, contrary to what the Committee had been told, no strike had ever been declared illegal. In the Government's eagerness to maintain social concord, its policy was to stave off the deterioration of any labour dispute, especially since history showed that the industrial tribunals and other such bodies provided for under the General Labour Law had always found in favour of the workers.

40. Turning to social security, he explained that a distinction was drawn in Bolivia between short-term (sickness and maternity insurance, insurance against occupational risks, etc.) and so-called long-term (disability, old age, death benefits, etc.) social security. In 1995, the coverage rate had been 23 per cent for short-term social security, and 18 per cent for long-term. The pensions scheme was currently being reformed in order to change it from a system of solidarity or collective capitalization to one of individual capitalization.

41. A major health reform had been undertaken, the main purpose being to decentralize the health system and strengthen the municipalities' autonomy. Accordingly, municipal health-centre networks had been created to afford universal access to the country's public hospitals. The objectives set for those health networks included reduction of maternal and infant mortality and the eradication of the main childhood diseases, especially diarrhoeal diseases and pneumonia. Those measures were all part of the larger framework of the Government's anti-poverty programme, the main pillars of which were public assistance to low-income groups; attention to the needs of women, indigenous peoples and the most vulnerable groups in society; quantitative and qualitative improvement of education; reorientation of public health spending; and housing assistance.

42. The CHAIRPERSON invited Committee members to put questions on article 10 of the Covenant.

43. Mr. ATANGANA said that several sources had claimed that maternal mortality was alarmingly high and had underscored the risks that large numbers of home births posed for mothers. He would like the delegation to provide more detailed information on that subject. He also noted that 11,069 complaints of rape and violence against women had gone unheeded, which could only aggravate the situation. What measures did the Government have in mind to eradicate that evil?

44. Ms. BARAHONA RIERA said that while the Bolivian Government had the merit of instituting an appropriate legal framework for guaranteeing the rights of women and children, it must be realized that the reality on the ground was quite a different matter. Disparities between the wages of men and women persisted, child labour continued, and the minimum wage law was not enforced in the case of domestic employees. Even more serious, child pornography, prostitution of women and children, and child abuse were still disturbing issues. In those circumstances, what measures had been taken in terms of criminal justice? And lastly, had any sex education and family planning programmes been implemented to lower the still very high maternal mortality rate?

45. Mr. MARCHÁN ROMERO requested a clear explanation of family planning in Bolivia. Was it a birth control device, or a demographic policy strategy?

46. Mr. TEXIER, broaching the question of criaditos (indigenous children aged 10-12 placed in well-to-do families who, as a consideration for their work, paid for their education and provided them with food and a roof), said that it was a reprehensible practice in many ways, given the exploitation of which such children were victims and the acculturation of the indigenous communities. Was there a State policy to eradicate the practice?

47. Mr. GRISSA wished to know the extent of the street-children phenomenon in Bolivia. Also, he had been surprised to read in paragraphs 247-250 of the report that 369,385 children aged 7-14 engaged in economic activity and that 37 per cent of children aged 7-9 claimed to be self-employed. What was the exact nature of their work? And what future was in store for those children, who, instead of working, should have been at school?

The meeting rose at 6 p.m.